



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Anthony Ippolito, Chairman
Carolina Linder, Vice-Chair
Steve Deackoff, Clerk
Dennis Sheehan
Jonathan Parker

**MEETING MINUTES
October 1, 2014**

The meeting was called to order at 7:02 p.m. by Anthony Ippolito, Chairman at the Pike House (temporary town hall). Present was Carolina Linder, Steve Deackoff, Dennis Sheehan, and Jonathan Parker. Also in attendance was Kyle Boyd, Conservation Agent.

Approval of Meeting Minutes – September 17, 2014

MOTION: Mr. Parker made the motion to approve the September 17, 2014 meeting minutes; seconded by Mr. Sheehan and the motion carried 5-0.

A) Continued) Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966

Present was Steven Cox and Jeff Ryder of Cuoco & Cormier. Mr. Cox explained that he is not the owner of the property and that he works for a private equity firm that purchased this property approximately one year ago. The firm's strategies are to purchase vacant properties to bring them up to current competitive conditions to lease the property. Mr. Cox is their asset manager and has worked with the firm since 1992. Mr. Cox explained that they purchased the property at 1 Radcliff; which is the former location of Avid Technologies. Avid Technologies vacated the premises and the larger building was taken over by Thermo Fisher. The building at 1 Radcliff remains vacant. Mr. Cox explained that their target market has been a full building user and they have completed some work outside with permitting such as landscaping, paving, etc., as well as some interior demolition. One of their strategies was to add parking as the current parking ratio is insufficient (452 spaces currently). Mr. Cox noted that the property has some extra land to the south to allow for additional parking. Mr. Cox explained that they went through various designs to determine if they could reach the 5 to 1, which would be 700 spaces, and they have three prospects for the building, two of which are not currently Tewksbury based companies and the other is from Tewksbury. During the planning process, the wetlands were and it was determined that there is a detention pond that is now a wetland as it has not been maintained for almost 20 years.

Mr. Ryder explained that this project originally came to be in 1983 when the Board of Selectmen issued a Special Permit. The Conservation Commission also issued an Order of Conditions in February, 1983. Mr. Ryder showed the proposed area for the additional parking on the plan and explained that the original intentions when this was developed was to allow for expansion in this area for additional parking as it has been graded that way and it is shown on the original plans as such. Mr. Ryder explained that when they looked into developing this area according to the storm water management guidelines, they were proposing to install an infiltration system. When their wetland scientist reviewed the site, he flagged this area as wetlands because of the vegetation that is there. Mr. Ryder noted that there are regulations that state that there cannot be any infiltrations within 50 feet of a wetland area. In their discussions with DEP, the applicant has been told that it is a wetland because of the vegetation; however, DEP also recognizes that the area was originally intended to be a detention pond and sent the matter back to the local Commission to determine whether this should be classified as a wetlands. If the area is determined to be wetlands, the infiltration system cannot be done. If the area is determined to be a detention pond, the infiltration system can be done and the parking area can be developed. Mr. Ryder noted that the review letter from their wetland scientist has been provided to the members.

Mr. Ryder noted that they also do recognize that there are wetland species in this area and explained that even if the Commission classifies the area as a detention pond and allowed the project, they would treat the area as a wetland and would not clear out the existing vegetation.

Mr. Ryder explained that the applicant is seeking a finding from the Commission that the detention pond is in fact a detention pond and they will then go back and refine their design and then come back to the Commission.

Mr. Deackoff asked if the original 1993 Order of Conditions is available. Mr. Ryder noted that they have the Orders and they were recorded with the Registry of Deeds; however, they have been unable to locate any plans to go with the Orders. Mr. Deackoff asked where the water from the additional parking will go. Mr. Ryder explained that it would go into the detention basin, but after it had been treated in the infiltration system and it would only be the overflow that would go in. Mr. Deackoff asked if they believe the detention basin will be able to handle all of the storm water as it currently exists. Mr. Ryder confirmed this. Mr. Deackoff noted that there are existing outlets that are half buried now and drain into the basin. Mr. Deackoff explained that if it is classified as a wetland, storm water cannot be discharged into it.

Ms. Linder referenced the comments made by the DEP and discussed the possibility of the calculations not being accurate due to the existing outlets being buried. Ms. Linder noted that the area is classified as a wetland and has been determined as such by DEP, Weston & Sampson, and the applicant's wetland scientist. Mr. Ryder noted that they will be submitting revised calculations and plans. Mr. Cox noted that the new plan will show the parking has been reduced by 115 parking spaces. Ms. Linder suggested the plans be done assuming the area is a wetland and showing where the buffer zones are and what will be done within the buffer zones.

Mr. Boyd noted that the law states it is a wetland and the area is currently acting as a wetland. Mr. Boyd agreed with Ms. Linder that there would need to be a buffer zone in place.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

Mr. Boyd asked if the negotiations with the potential tenants are contingent upon the parking. Mr. Cox explained that one of the two potential tenants would like the additional parking.

Ms. Linder asked if the 5 to 1 is really needed. Mr. Cox explained that the tenants are stating that they require it or they will lease somewhere else that can meet the 5 to 1.

Mr. Boyd suggested the applicant submit definitive plans showing the infiltration basin next to the wetland. The Commission will then have their consultant review this to determine if there will be any negative impacts to the wetland because of the infiltration system.

Mr. Deackoff suggested using porous pavement for the additional parking area. Mr. Ryder noted that this is not an option they have researched as there is a lot of fill in the area and DEP guidelines recommend against using porous pavement on top of fill.

Ms. Linder referenced Weston & Sampson's review letter and noted that the wetland is actually bigger than what is being depicted. Mr. Ryder noted they met with Weston & Sampson on site and relocated the flags. Ms. Linder suggested a plan be submitted showing this.

Mr. Deackoff suggested the applicant submit a plan treating the area as a wetland and see if they can treat the storm water runoff from the additional parking in some other fashion, whether with underground recharge or porous pavement.

MOTION: Mr. Deackoff made the motion that the area in question shall be treated as a wetland, the applicant shall research and submit an alternative plan for the runoff using either underground recharge or porous pavement; seconded by Ms. Linder and the motion carried 5-0.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966 to October 15, 2014 at 7:03 p.m.; seconded by Mr. Parker and the motion carried 5-0.

B) Notice of Intent, Donald McClaren, 416 & 436 Main Street, Map 22, Lots 68 & 69, DEP #305-971

Present was Donald McClaren, Don McClaren, Dick Cuoco, and Jeff Ryder of Cuoco & Cormier. Mr. Cuoco explained that there have been a couple of working sessions with the town staff, engineering staff, Conservation Commission representatives, and the Conservation Administrator since they last met with the Commission. As a result, the building has been pulled in to be further away from the wetland area and they have eliminated the pipe discharge that was going into the 25 foot no disturb zone. Mr. Cuoco explained that this has been changed to an underground detention/retention chamber that will pick up the same pipe system as has been shown in previous plans. Mr. Cuoco showed the location of the chamber on the plan. Mr. Cuoco noted that Mr. Boyd had requested they pull the roof drain further away from the wetland area and they have done this. Mr. Cuoco explained that the other issue from the last meeting was the sewer tying into the existing manhole which is within the buffer zone. This would be a temporary alteration. Mr. Cuoco explained that the town engineer and peer review engineer feel that putting in a drop over manhole on the line is not the best scenario for possible infiltration into the sewer line and if they utilize the existing manhole the integrity of the sewerage will be greater. Mr. Cuoco noted that the area will be restored once this has been completed. In addition, they will be installing a jog at the trash compactor and mechanical room in order to keep outside of the 50 foot no build zone. Mr. Cuoco noted that the recharge area is in addition to the porous pavement they are proposing to use.

Mr. Boyd noted that he is pleased to see the storm water altered and taken out of the no disturb zone. Mr. Boyd asked if the plans submitted have been updated to show the roof drains pulled back and Mr. Cuoco noted that this is not yet shown on the plan. Mr. Cuoco noted that the Planning Board made their decision contingent upon the revised plan being submitted and approved. Mr. Boyd asked if a restoration plan will be submitted and Mr. Cuoco confirmed this.

Mr. Deackoff asked if the Planning Board is also reviewing the storm water and Mr. Cuoco confirmed this.

Mr. Boyd noted that the town engineer's main concern was the roof drains. Mr. Cuoco suggested making any decision contingent upon the town engineer's approval of the revised plan.

Ms. Linder asked if the dumpster can be moved as it is within the 50 foot buffer. Mr. Cuoco noted that they are trying to keep it outside of the 50 foot and, if not, it will be 10 feet in at the most. Mr. Cuoco explained that this not an open dumpster and is a container that compacts the trash and is then taken away by truck and new one brought in. The unit is entirely sealed. Mr. Cuoco noted that the applicant would not be opposed to a condition that the container be sealed.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Deackoff made the motion to approve Notice of Intent, Donald McClaren, 416 & 436 Main Street, Map 22, Lots 68 & 69, DEP #305-971, contingent upon the final plans being submitted and approved by the town engineer and Planning Board and subject to the approval of the restoration plan by Mr. Boyd, reference shall be made to the “drainage worksheet progress print” dated September 28, 2014 as submitted by the applicant, the roof drains shall be brought outside of the no disturb zone, the 25 foot no disturb zone shall be marked out, the dumpster shall be a sealed container, a \$5,000 performance bond shall be put in place; seconded by Mr. Parker and the motion carried 5-0.

C) Certificate of Compliance, Dennis Sheehan, Wells Estates, DEP #305-756

Mr. Sheehan and Mr. Parker recused themselves and left the room.

Present was Dick Cuoco on behalf of Wells Estates. Mr. Cuoco explained that the issues relative to the conservation items on the Order of Conditions have been satisfied. There are a few outstanding issues on the road and they are working with the town engineer to correct these. Mr. Cuoco noted that the items relating to the wetlands and buffer zones have been addressed. Mr. Cuoco explained that they are requesting the Commission vote to issue the Certificate of Compliance as well as to accept the open space land as it is to be given to the Conservation Commission per the Order of Conditions. Mr. Cuoco noted that they had originally put this on the warrant for town meeting to have the town accept the open space; however, it was determined the land was to go to the Conservation Commission. As a result, it does not require town meeting action to accept it, but it does require the Commission’s action. Mr. Boyd noted that it also requires Board of Selectmen vote.

Mr. Cuoco noted that the catch basins were also recently cleaned out.

Mr. Boyd noted that the town engineer had a lengthy list of comments that the applicant has been working on to correct. The only conservation item that remains outstanding is the base of the basins as there is an approximate one foot difference from where it was proposed and where it actually is. The town engineer has requested Cuoco & Cormier submit drainage plans showing that this is not going to be a substantial difference.

Mr. Cuoco noted that they checked the volumes of the basins and what they were designed to hold versus the volume of what was constructed and it is the same. Mr. Cuoco explained that they did not do the design and noted that the designer of the plans passed away before the project was built.

Mr. Deackoff asked if there is a bond associated with the project and Mr. Boyd confirmed this.

MOTION: Mr. Deackoff made the motion to issue a Certificate of Compliance for Dennis Sheehan, Wells Estates, DEP #305-756, any bond in place shall be released, the Quitclaim Deed from Wells Estates shall be accepted by the Commission subject to the approval of Town Counsel and the Board of Selectmen; seconded by Ms. Linder and the motion carried 3-0-2. Mr. Sheehan and Mr. Parker did not take part in this vote or any discussions regarding same.

D) Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Map 20, Lot 82 & 19, DEP #305-0972

Present was Maureen Hanley of Norse Environmental Services, Peter Civitarese, and Kim Civitarese. Mr. Ippolito asked if there is a DEP number available and Ms. Hanley provided DEP #305-0972. Ms. Hanley provided the members with two plans; one showing the existing conditions and one showing what is being proposed. Ms. Hanley explained that their client had constructed a basketball court mistakenly on town of Tewksbury property. When they purchased the home, the real estate agent represented that the property line extended to the existing shed. As a result, they believed this to be their land. A neighbor contacted the town and informed them of the ongoing occurrences on this parcel. As a result, Mr. Civitarese went through a number of difference avenues with the town seeking an easement so that the basketball court could remain. Unfortunately none of these avenues have panned out. Ms. Hanley explained that they received an enforcement order to file with the Commission to remove the basketball court from the town of Tewksbury's property. Ms. Hanley noted that this filing is to remove the basketball court as well as the existing shed and relocate it to his property as well as provide some mitigation plantings along the wetland line.

Mr. Deackoff noted that he is not aware of any waivers that allow for a basketball court in the buffer zone. Ms. Hanley noted that they are open to any additional mitigation areas to be constructed. The basketball court was constructed for the homeowner's children to play on and they would like to see it remain if possible. Mr. Deackoff noted that it would be more appropriate to put the court between the existing deck and pool as there is sufficient land and it would be outside of the no disturb zone. Ms. Hanley noted that it likely would not fit in this area and the area is used as a lawn area. Mr. Deackoff noted that there is plenty of room in the yard to put the basketball court while staying outside of the buffer zone. Mr. Boyd suggested reducing the size of the basketball court to keep it out of the buffer zone. Ms. Hanley noted that the homeowner just informed her that the leach field is located between the deck and the pool.

Mr. Deackoff referenced a letter that was submitted by the neighbor that states that this area was designed to be the drainage for this development and now a basketball court is being proposed in this area.

Mr. Civitarese explained that moving the basketball court to the side would be cost prohibited as a retaining wall would be required. Mr. Civitarese explained that he was told that the fence, bushes, etc. that are being proposed would allow for less activity in the area and they feel this would actually improve the condition of the wetlands.

Ms. Linder noted that the project is not feasible the way the plan has been presented. Mr. Deackoff noted that he would be opposed to allowing a basketball court in a buffer zone.

Mr. Boyd suggested the applicant research alternative locations for the basketball court and noted that the basketball court should be removed as soon as possible as it has been there for almost one year.

Mrs. Civitarese requested a copy of the letter that was submitted by the neighbors. Mr. Boyd provided a copy of the letter.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Map 20, Lot 82 & 19 to October 15, 2014 at 7:05 p.m. seconded by Ms. Linder and the motion carried 5-0.

E) Ratify Enforcement Order, 230 North Street, Michael Dediu, Map 62, Lot 8

Mr. Boyd noted that two enforcement orders were inadvertently issued for this property. The matter has been referred to DEP and they have requested the Commission ratify the enforcement orders.

MOTION: Mr. Deackoff made the motion to ratify the enforcement order for 230 North Street, Michael & Sophia Dediu dated May 5, 2014; seconded by Ms. Linder and the motion carried 5-0.

MOTION: Mr. Deackoff made the motion to ratify the enforcement order for 230 North Street, Michael Dediu dated May 27, 2014; seconded by Ms. Linder and the motion carried 5-0.

New Business

Mr. Boyd noted that the Conservation Commission representative to the Local Housing Partnership (LHP) and Community Preservation Committee (CPC) is up for reappoint by the Commission members. Currently, Mr. Deackoff serves as the representative to both Committees.

Mr. Deackoff noted that he has already been reappointed to the CPC.

MOTION: Mr. Ippolito made the motion for Steve Deackoff to be Conservation Commission's representative on the Local Housing Partnership; seconded by Mr. Sheehan and the motion carried 5-0.

Ms. Linder requested in the future the plans be checked when they are submitted to ensure the buffer zones are properly marked out.

Old Business

There was no old business.

Administrator's Report

There was no Administrator's Report.

Adjourn.

MOTION: Mr. Deackoff made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 5-0.

Approved: 10/15/14

List of documents for 10/1/14 Agenda
Documents can be located at the Community Development Office

- 7:00 P.M. Call Meeting to Order
- Approval of Meeting Minutes-September 17, 2014
- A. 7:02 P.M Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52 Lot 25, DEP # 305-966
- *Review letter from Weston & Sampson dated April 14, 2014*
 - *Notice of Intent dated March 6, 2014*
 - *Amended Site plan dated March 12, 2014*
- B. 7:04 P.M Notice of Intent, Donald McLaren, 416 & 436 Main Street, Map 22 Lot 68 & 69, DEP # 305-971
- *Wamesit Lanes Drainage Calculations dated August 21, 2014*
 - *Abutter Notification submittal package*
 - *Operation & Maintenance Plan dated August 21, 2014*
 - *NOI submittal package dated August 25, 2014*
- C. 7:05 P.M Certificate of Compliance, Dennis Sheehan, Wells Estates, DEP # 305-756
- *Engineer Review letter dated September 8, 2014*
 - *Asbuilt Plan dated August 29, 2014*
- D. 7:06 P.M Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Maps 20 Lot 82 & 19
- *Plot of land dated March 29, 2013*
 - *Worksheet sketch dated July 23, 2014*
 - *Notice of Intent dated September 2014*
- E. 7:09 P.M Ratify Enforcement Order, 230 North Street, Michael Dediu, Map 62 Lot 8
- *Enforcement Order dated 5/27/14*
 - *Enforcement Order dated 5/5/14*